IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH JAIPUR

JUDGMENT

KASTURI LAL SAHAGAL VS J.D.A. & ANR.
D.B.CIVIL SPECIAL APPEAL (W) NO. 35 OF 2005 UNDER SECTION 18 OF THE RAJASTHAN HIGH COURT ORDINANCE, 1949 AGAINST THE JUDGMENT/ORDER DATED 4.11.2004 PASSED IN SBCWP NO.7764/2004.

DATE OF JUDGMENT :::: 31.1.2007

PRESENT

HON'BLE JUSTICE MRS.GYAN SUDHA MISRA
HON'BLE MR.JUSTICE KHEM CHAND SHARMA

Mr. Vikram Singh Nain for the appellant.
Mr. Imran Khan for the respondents.

BY THE COURT:

This appeal has been preferred against the order of the learned Single Judge passed in SBCWP No.7762/2004 wherein the petitioner/appellant came up with a case that the land which he had purchased from Arvind Nagar Grih Nirman Sahakari Samiti was not a part of the acquisition which had been upheld up to the Supreme Court. This was not the case of the appellant/petitioner before the learned Single Judge that he was holding the land which is not under acquisition. He had taken a general plea that the land on which he has constructed his house has not been acquired by the respondents. The petitioner/appellant thus has sought to improve his case before the Division Bench by contending that the plot of land on which he has constructed a house which is a part of Arvind

Nagar Grah Nirman Sahakari Samiti was not included in the acquisition proceeding. The case before the Division Bench, which the appellant has sought to build up, cannot be permitted as it is an improvement from what he had submitted before the Single Bench. The Cooperative society, which had been formed in the name of Arvind Nagar Grah Nirman Sahakari Samiti in which the plot pruchased by the appellant-petitioner also is situated, had admittedly been acquired by the State and the said acquisition has been upheld up to the Supreme Court. Therefore, if the learned Single Jude has refused to entertain the writ petition which essentially is a challenge to the acquisition proceeding at the instance of an individual land-holder, has rightly not been entertained by the learned Single Judge. The appeal thus has no substance and hence it stands dismissed at the admission stage itself.

(K.C.SHARMA)J. (GYAN SUDHA MISRA)J.

PCG